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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PILKINGTON, JAMES

ART UNIT	PAPER NUMBER
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3682

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/820,424

Applicant(s)

DE JONGE ET AL.

Examiner

James Pilkington

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16-18, 23-74 and 80-170 is/are pending in the application.
- 4a) Of the above claim(s) 8-11, 13, 16-18, 34, 38-50, 61, 70-74, 95-109, 125-138, 154-170 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 12, 23-33, 35-37, 51-60, 62-69, 80-94, 110-124 and 139-153 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/08/04 and 4/17/07 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/18/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rod being molded at least partly around the magnet clm 82 and a component of a keyless ignition system clm 120 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

- the first member (clm 1 and 3) should be - - pin - - as noted in Applicants Remarks
- the "manually movable input member" in clm 4 and the "manually operable member" in clm 60 should be - -button- - as noted in the Applicants Remarks
- The engagement member (clm 68, 90, 93, 94, 118) should be - - pawl - - as noted in Applicants Remarks

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 23 and 51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not provide support for a vehicle operating parameter other than a vehicle ignition and a position of a vehicle

brake pedal. In fact the specification clearly states that one of the operating parameters is indeed the position of the brake pedal (paragraph 0063). See MPEP 2173.05(i).

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23, 28-29 and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The negative recitation in claims 23 and 51 renders the claims indefinite since the boundaries of the claims are not clear. Defining an operating parameter by what it is not fails to clearly define that parameter. See MPEP 2173.05(i).

Claims 28 and 29 recite the limitation "said input member" in lines 3 and 4, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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7. Claims 1-6, 23, 26-30, 35-37, 51-57, 59, 85, 90-94, 110-114, 117-119, 139-145, and 148-149, are rejected under 35 U.S.C. 102(e) as being anticipated by Russell, US PGPub 2004/0244524 (filed April 15, 2003).

Re clms 1-6, 23, 26-30, 35-37, 51-57, 59, 85, 90-94, 110-114, 117-119, 139-145, and 148-149, Russell discloses a shift assembly for controlling the transmission of a motor vehicle comprising:

- a base (22) configured to be mounted to a motor vehicle, including a stop surface (12)
- a shift member (32) movably mounted to said base (22) and being movable to a plurality of discreet positions (park, reverse, drive etc.)
- a shift gate (34) fixed on the shift member (32) and having at least park, reverse and drive gear positions (paragraph 0027)
- a powered pawl mechanism (54/56) fixed to said base (22)
- said powered pawl having a movable pawl including a first member (58) and a pawl member (54) is resiliently and elastically (everything is elastic as it has some yield) connected to the first member (moves with 58), wherein the pawl member (54) is shiftable between an engaged position wherein said pawl engages a selected one of said gear positions of said shift gate (34) and at least partially restrains movement of the shift member, and a disengaged position wherein said pawl member (54) is disengaged from said shift gate

- said pawl member (54) is rotatable relative to the first member (58) (rotates about pin, see Figures 5-7)
- an input member/movable member (button on shift knob 48, Figure 4, or flow chart character 124) that translates linearly {clm 55} and wherein said pawl mechanism includes a solenoid (56) that shifts said pawl member (54) into said disengaged position upon actuation of the switch (paragraph 0033)
- said shift gate (34) includes notches (52) forming said gear positions, each of said notches including a bottom surface and side surfaces (see Figure 5) that restrains movement of the shift lever (32) in at least a first direction when said pawl member is in said engaged position
- said solenoid (56, a solenoid uses magnets) is biased into said engaged position (biased by spring 98, spring biases links which bias solenoid pin 90)
- said shift lever (32) is pivotably mounted to said base (22) and pivots about a pivot axis (at 132)
- said pawl member (54) is configured such that it does not contact a bottom surface of said notches when in the engaged position (see Fig. 5)
- said shifter includes a controller that does not actuate said powered pawl when said shift lever is in said park position unless said controller determines that a key is in the ignition of the vehicle, and the brake pedal is depressed (Figure 8, paragraphs 0036-0040)

- a movable member/shift lever (32) generates a signal to said controller such that said controller can determine which input position said shift member is in and wherein said controller controls said powered pawl based upon vehicle operating parameters (see Figure 8) and position of said shift member
- said movable member/shift lever (32/48) generates a signal proportional to the distance moved, said controller controls said powered pawl based on signal (switches 108 and 116)
- the controller controls the powered pawl based at least in part on the position of the movable member/lever button (48)
- a mechanical linkage (30) coupled to the lever (32)
- the pawl member is movable between three distinct positions (engaged, half way between engaged and disengaged, and disengaged or any position on the shift gate)
- a first battery (106, an alternator is a type of battery that acts to power the majority of the components when a car is running) forming a main vehicle power supply
- a second battery (104) forming a backup electrical power supply (when the vehicle is off and the main power supply system is not functioning)

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russell '524 in view of Ruiter, USP 5,220,984.

Russell discloses all of the claimed subject matter as described above. Russell also discloses that the shift gate (34) includes a notch forming a neutral position.

Russell does not disclose that the notch forming the reverse gear position is shaped to permit said pawl member to move into said neutral position by movement of said shift lever when said pawl member is in the engaged position, but prevents movement of said pawl member from said neutral position to said park position when said pawl member is in said engaged position.

Ruiter teaches that the notch forming the reverse gear position (R) is shaped to permit said pawl member to move into said neutral position by movement of said shift lever when said pawl member is in the engaged position, but prevents movement of said pawl member from said neutral position to said park position when said pawl member is in said engaged position (see Fig. 1) for the purpose of providing a shift lever that can not be moved into or out of the park position without applying the brake (solenoid does not work release pawl unless brake is depressed) (C1/L56-60).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide for the notch forming the reverse gear position to be shaped to permit said pawl member to move into said

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neutral position by movement of said shift lever when said pawl member is in the engaged position, but prevents movement of said pawl member from said neutral position to said park position when said pawl member is in said engaged position, as taught by Ruiter, for the purpose of providing a shift lever that can not be moved into or out of the park position without applying the brake.

10. Claims 12 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell '524 in view of Kito, USP 4,947,967.

Russell discloses all of the claimed subject matter as described above.

Russell does not disclose a manual release member operably connected to the pawl member when the button is at rest.

Kito teaches a manual release member (33) operably connected to the pawl member for the purpose of providing an override to the solenoid used to hold the pawl in the locked position (C7/L54-C8/L7).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide a manual release member operably connected to the pawl member, as taught by Kito, for the purpose of providing an override to the solenoid used to hold the pawl in the locked position.

11. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russell '524 in view of Kato, USP 6,679,809.

Russell discloses all of the claimed subject matter as described above.

Russell does not disclose that one of the vehicle operating parameters comprises the engine r.p.m. (speed).

Kato teaches a shift lever assembly wherein an engine revolution speed signal (e) is used to control the shifting of a lever to another gear (C3/L6-C4/L7) for the purpose of preventing careless operation of the shift knob and eliminating the possibility of jack-rabbit starts or hard braking (C3/L36-38).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide a shift lever assembly wherein an engine revolution speed signal is used to control the shifting of a lever to another gear, as taught by Kato, for the purpose of preventing careless operation of the shift knob and eliminating the possibility of jack-rabbit starts or hard braking.

12. Claims 25, 146 and 147 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell '524 in view of Durieux, USP 6,059,687.

Re clms 25 and 146, Russell discloses all of the claimed subject matter as described above.

Russell does not disclose that one of the vehicle operating parameters comprises the vehicle speed.

Durieux teaches a shift lever assembly wherein the vehicle speed is used to control the shifting of a lever to another gear (C4/L21-27) for the purpose of preventing movement of the shift lever into the park position when the car is moving (C4/L21-27).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide a shift lever assembly wherein the vehicle speed is used to control the shifting of a lever to another gear, as taught by Durieux, for the purpose of preventing movement of the shift lever into the park position when the car is moving.

Re clm 147, Russell discloses the first position of the pawl comprises a retracted position (disengaged), the second position comprises an intermediate position (half-way between disengaged and engaged, the third position comprise an extended position (engaged).

13. Claims 31-33, 86-89, and 115-116, are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell '524 in view of Rossetti, USP 5,387,892.

Re clms, 31-33, 86-87 and 115, Russell discloses all of the claimed subject matter as described above.

Russell does not disclose that the solenoid includes a spring biasing the movable/output member, that the magnet defines an attraction region and that the movable member is movable through a range of motion within said attraction region.

Rossetti teaches a solenoid (1) includes a spring (15) biasing the movable member (13) made of a polymer material (everything is a polymer, "made of natural or synthetic compounds" (Webster's II New Riverside Dictionary)), that the magnet (coil 7) defines an attraction region (8) and that the movable member (13) is movable through a

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range of motion within said attraction region (moves up and down in 8) for the purpose of providing a solenoid that cuts down on assembly time and cost (C1/L8-C2/L2).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide a solenoid includes a spring biasing the movable member, that the magnet defines an attraction region and that the movable member is movable through a range of motion within said attraction region, as taught by Rossetti, for the purpose of providing a solenoid that cuts down on assembly time and cost.

Re clm 88, Russell discloses that the shift member (32) is a shift lever rotatably mounted to the base (22).

Re clms 89 and 116, Russell discloses that the plurality of gear positions comprises park, neutral and drive (paragraph 0027).

14. Claims 60 and 62-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell '524 in view of Kito, USP 4,947,967.

Russell discloses:

- a base (22) configured to be mounted to a motor vehicle, including a stop surface (12)
- a shift member/lever (32) movably mounted to said base (22) and being movable to a plurality of discreet positions (park, reverse, drive etc.)
- a manually operable member (button) on the shift member (32) that is movable between a rest position and an actuating position

- a shift gate (34) fixed on the shift member (32) and having at least park, reverse and drive gear positions (paragraph 0027)
- a powered pawl mechanism (54/56) fixed to said base (22)
- said powered pawl (54/56) having a movable pawl including a first member (58) and a pawl member/engagement member (54) is resiliently connected to the first member (moves with 58), wherein the pawl member (54) is shiftable between an engaged position wherein said pawl engages a selected one of said gear positions of said shift gate (34) and at least partially restrains movement of the shift member, and a disengaged position wherein said pawl member (54) is disengaged from said shift gate
- wherein the pawl (54) is movable to a disengaged position when the manually operable member is in the actuating position (button is in pawl retracts)
- the powered pawl comprises a solenoid (56)
- at least one device (button on handle configured to generate a signal to a controller
- the plurality of gear positions comprises at least park, reverse, neutral and drive
- a mechanical linkage (30) coupled to the shift member (32)
- the pawl is biased into the engaged position by spring (98)

Russell does not disclose a manual release member operably connected to the pawl member.

Kito teaches a manual release member (33) operably connected to the pawl member for the purpose of providing an override to the solenoid used to hold the pawl in the locked position (C7/L54-C8/L7).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide a manual release member operably connected to the pawl member, as taught by Kito, for the purpose of providing an override to the solenoid used to hold the pawl in the locked position.

15. Claims 80-84, are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell '524 in view of van Namen, USP 6,512,435.

Russell discloses:

- a base (22)
- a shift member/lever (32) movably mounted to said base (22) and being movable to a plurality of discreet positions (park, reverse, drive etc.)
- a shift gate (34) fixed on the shift member (32) and having a plurality of notches (Figure 3)
- a powered pawl mechanism (54/56) fixed to said base (22)
- the powered pawl (54/56) comprises a solenoid (56) having a housing (outside of solenoid) and a rod (90) movably mounted within the housing, the rod

Russell does not disclose that the magnet is encapsulated by a resilient material, that the magnet has a ring-like shape with generally parallel side faces, the rod is made

out of a polymer, the resilient material defines a melting temperature and the polymer material has a melting temperature that is greater than that of the resilient material, and the polymer material extends along at least a portion of the side faces of the magnet.

van Namen teaches a solenoid that has the magnet (14A) encapsulated by a resilient material (the housing encapsulates the magnet), that the magnet has a ring-like shape with generally parallel side faces (see Figure 1A), the rod is made out of a polymer, the resilient material defines a melting temperature and the polymer material has a melting temperature that is greater than that of the resilient material (different materials have different melting points), and the polymer material extends along at least a portion of the side faces of the magnet (14D and 14C extend along the side of the magnet) for the purpose of making an actuator that is simple and inexpensive and in a basic coaxial form that utilizes a minimum quantity of coils and permanent magnets (C3/L19-22).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide a solenoid that has a magnet encapsulated by a resilient material, that the magnet has a ring-like shape with generally parallel side faces, the rod is made out of a polymer, the resilient material defines a melting temperature and the polymer material has a melting temperature that is greater than that of the resilient material, and the polymer material extends along at least a portion of the side faces of the magnet, as taught by van Namen, for the purpose of making an actuator that is simple and inexpensive and in a basic coaxial form that utilizes a minimum quantity of coils and permanent magnets.

16. Claims 120-124 and 150-153, are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell '524 in view of Kumazaki, USP 2003/0135321.

Re clms 120-124 and 150-153, Russell discloses:

- a base (22)
- a shift member/lever (32) movably mounted to said base (22) and being movable to a plurality of discreet positions (park, reverse, drive etc.)
- a shift gate (34) fixed on the shift member (32) and having a plurality of notches/gear positions (Figure 3)
- a powered pawl mechanism (54/56) fixed to said base (22)
- the powered pawl (54/56) comprises a solenoid (56) having a housing (outside of solenoid) and a rod (90) movably mounted within the housing, the rod

Russell does not disclose a controller operably coupled to the powered pawl, the controller configured to control the powered pawl based, at least in part, upon a signal received by a component of a keyless ignition system.

Kumazaki teaches a controller (ECU) operably coupled to the powered pawl (solenoid 47/shift lock), the controller configured to control the powered pawl based, at least in part, upon a signal received by a component of a keyless ignition system (electronic key 50) for the purpose of providing a keyless ignition system that does not require the use of key (paragraph 0006) and can successfully verify a code from a portable device (paragraphs 0007-0009).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide a controller operably coupled to the powered pawl, the controller configured to control the powered pawl based, at least in part, upon a signal received by a component of a keyless ignition system, as taught by Kumazaki, for the purpose of providing a keyless ignition system that does not require the use of key and can successfully verify a code from a portable device.

Response to Arguments

Applicant's arguments filed 4/17/07 have been fully considered but they are not persuasive.

17. With respect to the applicants arguments regarding the specification objection for failing to provide proper antecedent basis for the claimed subject matter the examiner directs the applicant to MPEP § 608.01(o) where it states:

608.01(o) [R-3] Basis for Claim Terminology in Description

The meaning of every term used in any of the claims should be apparent from the descriptive portion of the specification with clear disclosure as to its import; and in mechanical cases, it should be identified in the descriptive portion of the specification by reference to the drawing, designating the part or parts therein to which the term applies. A term used in the claims may be given a special meaning in the description. **>See MPEP § 2111.01 and § 2173.05(a).<

Usually the terminology of the original claims follows the nomenclature of the specification, but sometimes in amending the claims or in adding new claims, new terms are introduced that do not appear in the specification. The use of a confusing variety of terms for the same thing should not be permitted.

18. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a resilient connection that includes a pad, Remarks page 5 line 15 – page 6 line 5) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, the structure of the resilient pad is not being read into the claim. Since the claim only recites "resiliently connected" it is the examiner position that Russell clearly shows this limitation.

19. In response to applicants arguments (page 6 lines 6-22 and page 7 line 24-page 8 line 12) directed to independent claims 23 and 51 the applicant is advised to review the rejection under 35 USC 112 first and second paragraph. Furthermore, Russell does indeed disclose "other" operating parameters as shown in Figure 8. Regarding the applicants remarks regarding the Kato reference found in this section of the remarks, the examiner is not clear what the applicant is attempting to argue since claims 23 and 51 are and were original rejected under 102(e) and didn't require the Kato reference.

20. The applicant argues on page 6 line 23 to page 7 line 5 that Russell does not disclose "a shifter including a pawl mechanism having a solenoid including a magnet that biases a movable member of the solenoid into a rest position."

The examiner disagrees and notes that the claim is silent as to what the "rest position" is. Therefore, the rest position can be rod 90 fully extended or retracted. In either case the magnet biases the rod, when the solenoid is active the magnet will bias the rod out into the extended rest position and when the solenoid is off the magnet no longer produces a force and will therefore bias the rod into the retracted rest position.

21. The applicant argues that Rossetti and/or Russell does not teach a spring biasing the movable member into the rest position and that the spring does not bias the movable member throughout a portion of the range of motion (page 7 lines 6-23 and page 12 lines 8-13).

For the same reason as noted above the rest position is not defined by the claims as being extended or retracted. In the case of Rossetti a spring biasing the movable member in a rest position is clearly shown, in this example the rest position is the extended position. As for the spring not biasing throughout a portion of the range of motion Rossetti clearly shows this. The spring does not bias the moveable member when the solenoid is on and pulley the moveable member. During this stage if the spring was biasing the member the member would not move but since the force of the magnet is greater then the force of the spring there is no biasing force acting on the spring from the magnet until the movable member comes to rest again.

22. The applicant argues on page 8 lines 13-18 that Russell does not disclose "that the controller controls the powered pawl based at least in part on the number of times a

movable member is shifted between a first and second positions, as described at paragraph [0062].

In response, it is noted that the features upon which applicant relies (i.e., the number of times it is pushed over a time period) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As the claim is currently written Russell clearly shows that the controller controllers the powered pawl based at least in part on the number of times the button is pushed, every push of the button gets a response for the pawl.

23. The applicant argues on page 8 line 19 - page 9 line 4 that Kito does not provide a release mechanism permitting an operator to manually control the powered pawl when the button is in the rest position.

In response the examiner disagrees, Kito discloses that the manual release 33 is used when there is a malfunction in the electrical system. Since this is the case the manual release 33 can clearly function with or without the button being depressed.

24. The applicant's arguments directed to claims 80-84 are moot in view of the new grounds of rejection set forth above.

25. The applicant argues on page 11 line 9 – page 12 line 5 that Russell fails to disclose a solenoid having a magnet that biases the solenoid to a rest position.

The examiner disagrees and asserts that Russell clearly discloses the use of a solenoid. Since a solenoid is a type of magnetic actuator that uses an electrical field created by coils to move a magnet and plunger assembly, Russell is indeed disclosing the use of a magnet to bias the solenoid to a rest position. As noted above that rest position is not clearly defined by the claim and can be when the solenoid is on and the magnet and plunger are at rest in the extended position in this case the force that the magnet is exerting on the plunger is a biasing force.

26. The applicant argues on page 12 line 14 - page 13 line 5 that Russell does not disclose a powered pawl having "a linearly movably output member that shifts along an axis and an engagement member resiliently coupled to the output member such that the engagement member engages the shift gate and the stop surface upon application of a force to the shift member when the pawl is in the engaged position to thereby transfer forces into the base."

The examiner disagrees and argues the Russell does indeed disclose a linearly movably output member (the rod) that shifts along an axis (the axis of the rod) and an engagement member resiliently coupled (by the links) to the output member (the pawl) such that the engagement member engages the shift gated and the stop surface upon application of a force to the shift member when the pawl is in the engaged position to thereby transfer forces to the base (when the pawl in engaged in Russell it prevents motion when a user applies a force to the shift member). The examiner again notes that limitation from the specification are not read into the claims therefore without

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claiming any structure of the resilient coupling this limitation is broad and Russell does indeed anticipate this limitation. Regarding function language limitations the examiner notes that a device must only be capable of performing the claimed function and in this case Russell is indeed capable of and in fact does function in the same manner as that claimed.

27. The applicant argues on page 13 lines 8-15 that Russell does not disclose a first battery forming a main vehicle power supply and a second battery forming a backup supply.

The examiner disagrees and as noted in the rejection above asserts that Russell does indeed disclose this limitation. Russell discloses that an alternator is part of the main supply system and an alternator is a type of battery/generator that supplies the majority of the power to all the components when vehicle is operating. When the vehicle is off and the main system not functioning Russell discloses that the cars battery is the only thing powering the solenoid.

28. Applicant's arguments with respect to claims 120-124 have been considered but are moot in view of the new ground(s) of rejection.

29. The applicant argues on page 14 lines 1-15 that Russell does not disclose that the movable pawl member can be moved between first, second and third positions.

The examiner disagrees and argues that Russell does indeed disclose this limitation. Russell shows multiple recesses in the detent plate 34, each one of these recesses is indeed a different position for the pawl member therefore the pawl of Russell is movable between first, second and third positions. If it is the applicants intent to argue that Russell doesn't show three positions that have different depths as that shown in Figure 10 of the instant application the examiner notes that the claim does not reflect that the positions have to have different depths or dimensions.

30. Applicant's arguments with respect to claims 150-153 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Pilkington whose telephone number is (571) 272-5052. The examiner can normally be reached on Monday-Friday 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

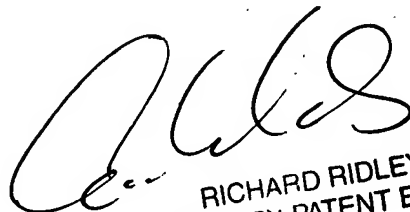
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4/30/07


RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER